

Application No. 10/706,715
Amendment dated September 14, 2007
Reply to Office Action of May 4, 2007

REMARKS

Applicant cancelled claims 25 and 26 without prejudice or disclaimer of their subject matter, amended claims 1, 2, and 12 to further define Applicant's invention.

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between Group I (claims 1-24) and Group II (claims 25-26). In response, Applicant confirms the provisional election made by telephone on April 11, 2007 of Group I (claims 1-24) without traverse. Accordingly, Applicant elects to prosecute claims 1-24 (including independent claims 1 and 12), and has cancelled claims 25 and 26.

The Examiner objected to the specification and claims 4 and 17 based on informalities. According to the Examiner, it is not clear what is meant by claims 4 and 17 because it seems "that any spring clip is adapted to apply a force to the upper and lower support members to bias the upper and lower support members toward one another in a closed position, the force being greater than needed to move the upper and lower members into contact with one another." In response, Applicant submits that, for example, a clip 100 according to Applicant's invention can have an upper support member 106 and a lower support member 108 biased together by a force. However, the force holding the upper and lower support members 106 and 108 together does not have to be greater than a force needed to move the upper and lower support members 106 and 108 into contact with one another. The force holding the upper and lower support members 106 and 108 together can be equal to the force needed to move the upper and lower support members 106 and 108 into contact with one another. As such, Applicant submits that the Examiner's objection regarding the specification and claims 4 and 17 has been overcome.

Furthermore, the Examiner objected to claim 2 based on informalities. In response, Applicant has amended claim 2 to recite that "said wire has a maximum diameter less than or equal to 1.0 mm." As such, Applicant submits that the Examiner's objection to claim 2 has also been overcome.

Application No. 10/706,715
Amendment dated September 14, 2007
Reply to Office Action of May 4, 2007

As discussed below, the Examiner has rejected independent claims 1 and 12 under 35 U.S.C. § 102(b) using various prior art references. According to the MPEP § 706.02, "for anticipation under 35 U.S.C. 102, the [prior art] reference must teach every aspect of the claimed invention either explicitly or impliedly." As discussed below, none of the prior art references cited by the Examiner teach or suggest every limitation of the instant invention as claimed in amended independent claims 1 and 12. Accordingly, Applicant respectfully submits that amended independent claims 1 and 12 are patentable over the Examiner's rejections based on 35 U.S.C. § 102(b).

The Examiner rejected claims 1, 3-7, 12, 13, and 15-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,125,789 to Parker ("Parker"). Parker discloses a spring clip having a coil (10) and opposite legs (11) extending therefrom. Opposite the coil (10), one of the opposite legs (11) includes a bend (20), and the other of the opposite legs (11) includes a bend (28). However, as shown in Fig. 1, the width of the opposite legs (11) at the bends (20) and (28) is less than the width of the coil (10). Accordingly, Parker does not disclose, as recited in amended independent claims 1 and 12, a surgical ligation clip having an upper support member, a lower support member, and a connector joining the upper support member and the lower support member, where the connector has a width in a first plane parallel to the mid-longitudinal axis of the clip, and, adjacent the distal end of the clip opposite the connector, at least one of the upper support member and the lower support member has a width in a second plane generally parallel to the first plane greater than the width of the connector.

The Examiner rejected claims 1 and 3-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,777,949 to Perlin ("Perlin"). Perlin discloses a surgical clip (20) having one end provided at tips (38) and (48) of jaws (36) and (46), respectively, and another end provided at a common apex (23). A single piece of wire forms the surgical clip (20), and the ends of the single piece of wire correspond to the ends (42) and (52) of the jaws (36) and (46), respectively. The ends (42) and (52)

Application No. 10/708,715
Amendment dated September 14, 2007
Reply to Office Action of May 4, 2007

terminate approximately halfway between the end provided at the adjacent tips (38) and (48) and the end provided at the common apex (23) adjacent the middle of the surgical clip (20). Accordingly, Perlin, does not disclose, as recited in amended independent claims 1 and 12, a surgical ligation clip formed of a single piece of material having a first free end and a second free end terminating proximate the proximate end thereof.

The Examiner rejected claims 1, 3-9, 12, 13, and 16-22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,113,991 to Larsen ("Larsen"). Larson discloses a clothespin including a coil (1) and jaws (3) extending therefrom. However, as shown in Fig. 2, the width of the jaws (3) adjacent the ends thereof opposite the coil (1) appear equal to (if not less than) the width of the coil (1). Accordingly, Larson does not disclose, as recited in amended independent claims 1 and 12, a surgical ligation clip having an upper support member, a lower support member, and a connector joining the upper support member and the lower support member, where the connector has a width in a first plane parallel to the mid-longitudinal axis of the clip, and, adjacent the distal end of the clip opposite the connector, at least one of the upper support member and the lower support member has a width in a second plane generally parallel to the first plane greater than the width of the connector.

The Examiner rejected claims 1, 12, and 14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,666,514 to Sigler ("Sigler"). Sigler discloses a paper clip having one end provided at loop (4), and another end provided at loop (6). The paper clip is formed from a single piece of wire having two ends. At least one of the ends of the single piece of wire (labeled with the numeral (10) in Fig. 2) terminates adjacent the middle of the paper clip. Accordingly, Sigler does not disclose, as recited in amended independent claims 1 and 12, a surgical ligation clip formed of a single piece of material having a first free end and a second free end terminating proximate the proximate end thereof.

Application No. 10/706,715
Amendment dated September 14, 2007
Reply to Office Action of May 4, 2007

The Examiner rejected claims 1, 3, 4-7, 10, 12, 13, 15-20, and 23 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,777,950 to Kees, Jr. ("Kees"). Kees discloses a vascular clip (10) having a spring section (34) and two jaws (16, 20) and (18, 22) extending therefrom. However, as shown in Fig. 3, the width of the jaws (16, 20) and (18, 22) appear equal to (if not less than) the width of the spring section (34) adjacent the ends thereof opposite the spring section (34). Furthermore, the vascular clip (10) is formed from a single piece of wire having two ends (30) and (32). As shown in Fig. 3 of Kees, both of the ends (30) and (32) terminate adjacent the middle of the vascular clip (10). Accordingly, Kees does not disclose, as recited in amended independent claim 1 and 12, a surgical ligation clip having an upper support member, a lower support member, and a connector joining the upper support member and the lower support member, where the connector has a width in a first plane parallel to the mid-longitudinal axis of the clip, and, adjacent the distal end of the clip opposite the connector, at least one of the upper support member and the lower support member has a width in a second plane generally parallel to the first plane greater than the width of the connector. Furthermore, Kees also does not disclose, as recited in amended independent claims 1 and 12, a single piece of material having a first free end and a second free end terminating proximate the proximate end thereof.

The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Perlin in view of U.S. Patent No. 5,593,414 to Shipp et al. ("Shipp '414"); and rejected claims 11 and 24 as being unpatentable over Kees in view of U.S. Patent No. 5,858,018 to Shipp et al. ("Shipp '018"). Applicant submits that the rejections of claims 2, 11 and 24 are rendered moot at least because these claims depend from one of allowable, amended independent claims 1 and 12, or claims dependent therefrom.

In conclusion, Applicant submits that amended independent claims 1 and 12 are patentable and that dependent claims 2-11, and 13-24 dependent from independent claim 1 or 12, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim. Therefore, in view of the foregoing

Application No. 10/708,715
Amendment dated September 14, 2007
Reply to Office Action of May 4, 2007

RECEIVED
CENTRAL FAX CENTER

SEP 14 2007

remarks, it is respectfully submitted that the claims, as amended, are patentable.

Accordingly, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: September 14, 2007

By: 

Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030